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# Funding the tobacco buyout

**By John-Mark Hack**
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It seems clear that tobacco growers have a payment due under the terms of the National Tobacco Growers Settlement Trust, otherwise known as Phase II. In stumbling over themselves to provide quick relief, the Kentucky House of Representatives passed House Bill 132, a well-intended but misguided proposal that would take the state further into debt *and* undermine our historic agricultural diversification efforts, all to replace payments that should be made by cigarette companies. The state Senate is contemplating taking on an even higher debt to finance the same payment. Gov. Ernie Fletcher and the legislative leadership should consider some key points before using tax money for this purpose.

The actual cost to the commonwealth to make the $114 million payment could total more than $211 million. The House effort would use $27 million from the Kentucky Agricultural Development Fund (KADF) and $87 million generated from 20-year bonds. Borrowed at current rates, along with bonding fees, the total debt could cost $184 million. Add that to the cash being drained from the diversification fund, and the total cost to pay out $114 million now could reach $211 million over 20 years. Incurring this level of debt is fiscally irresponsible, and would permanently undermine our agricultural diversification efforts.

HB 132 uses public funds to meet cigarette company obligations that are in ongoing litigation. In 1999, cigarette companies agreed to 12 annual grower payments from the Phase II Fund. The companies now argue that the federal tobacco buyout, passed in 2004 and funded by tobacco product assessments, terminates their obligations because of a tax-offset provision in the Phase II agreement. State governments argue that the companies should make the 2004 payment because the federal buyout won't begin until this year, and the offset provision shouldn't be applied. The North Carolina Supreme Court will consider the dispute this year. Making the payment now is premature.

The Lexington-based Burley Tobacco Growers Cooperative Association has the assets to make at least part of the Phase II payment growers need while they await the court's decision. In addition to granting farmers direct cash payments, the federal buyout also forgave a sizeable loan to the Co-op, as it's called, and granted it ownership of stored tobacco potentially worth millions of dollars. Farmers have already been paid for this tobacco, and it could be marketed for handsome profits. The Co-op also has about $24 million in cash reserves. Growers are financially stressed by the loss of their 2004 Phase II payment and a stop-gap payment is necessary while the court considers the case. The Growers' Co-op should consider how it can help.

Tobacco growers have received substantial assistance over the past five years, and the commonwealth faces several other high priority issues. Tobacco growers have received a total of $931 million in unrestricted cash payments since 1999, in addition to the $3.76 billion they made from tobacco sales. The table (above) summarizes Kentucky growers' income from sales, the Phase II fund, a direct cash payment from the KADF, and the federal Tobacco Loss Assistance Program (TLAP). Beginning this summer, growers will share an additional $2.5 billion over the next 10 years from the buyout.

Kentucky farmers deserve their final Phase II payment, and the companies should make it. If not, then the Growers Cooperative should. There are many better uses for tax dollars right now than making large cash payments to a few thousand citizens, and relatively much smaller payments to tens of thousands more. The payments are no doubt important to many farmers, but the importance is relative. Consider that 114,000 of 163,000 recipients will get checks for $500 or less. Only about 130 will get $50,000 or more.

Frankfort should be deliberative in its efforts to provide relief to tobacco growers. The 2004 Phase II payment is a cigarette company obligation in litigation; the commonwealth can't afford to go into debt and dismantle our agricultural development efforts as we enter the new territory of a post-tobacco buyout world; and, most important, the farmers' own cooperative has the ability to make at least part of the payment to its members.

There is no question that tobacco farmers need and deserve the 2004 Phase II payment, but the funds should be found somewhere other than taxpayers.

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